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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,635	01/24/2001	Michael J. Cafarella	TEL-015	5300
24488	7590	05/26/2004	EXAMINER	
BEVER, HOFFMAN & HARMS, LLP 1432 CONCANNON BLVD BLDG G LIVERMORE, CA 94550-6006			LIEN, TAN	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/769,635

Applicant(s)

CAFARELLA ET AL.

Examiner

Tan Lien

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
4a) Of the above claim(s) 45-54 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-73 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

- Species 1: claim(s) 42, 43, 44
- Species 2: claim(s) 45
- Species 3: claim(s) 46
- Species 4: claim(s) 47, 48, 49, 50, 51
- Species 5: claim(s) 52, 53, 54

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, species 1-5 have claim 41 as generic claim.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include

all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Ms. Jeanette S. Harms on 5/10/2004 a provisional election was made without traverse to prosecute the invention of claims 42-44. Affirmation of this election must be made by applicant in replying to this Office action. Claims 45-54 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 1, 13-14, 23, 40 and 55-62 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Padmanabhan et al (US Patent 6,219,638 B1), hereinafter referred to as Padmanabhan, in view of W3C VoiceXML Forum (<http://www.w3.org/TR/2000/NOTE-voicexml-20000505>), hereinafter referred to as VoiceXML Forum.

Claim(s) 1, 14, 23, 55-62: Padmanabhan discloses a method for providing a telephony session, the method including:

receiving an electronic mail request from a third party to provide the telephony session (col. 3, lines 21-30; wherein the request is in a form of a message send by the email to the message server or an HTTP request to the message server); calling a customer in accordance with the request (Fig. 1, reference 16, 26, and 12 of Padmanabhan; wherein the figure show the communication is both ways and the Telephony Server is capable of calling the customer via the telephone); responding to an interaction with the customer during the telephony session (col. 3, lines 55-60; wherein the interaction is in the form of tone dialing or verbal response).

Padmanabhan fails to disclose a method that includes accessing a URL providing a VoiceXML application in accordance with the request and running the VoiceXML application when the customer answers. VoiceXML Forum, however, discloses the use of VoiceXML to create audio dialogs that feature synthesized

speech, digitized audio, recognition of spoken key input, recording of spoken input, telephony, and mixed-initiative conversations (Abstract section of the document). It would have been obvious to one of ordinary skill in the art at the time of the invention to run the VoiceXML application on the Speech Synthesis Server (Fig. 1, reference 34) when the customer answer. The motivation for the use of VoiceXML would be to bring the advantages of web-based development and content delivery to interactive voice response applications (Abstract section of the document).

Claim(s) 13, 40: Padmanabhan discloses a method of claim(s) 1, 23 above, further including

reformatting the request for processing (col. 3, lines 25-30; wherein the request in the email message has to be formatted in a form where the message server has to understand in order for it to forward it to the telephony server).

Claim(s) 2-3, 5-12, 15, 17-22, 24-39, 63-64, 66-73 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Padmanabhan in view of VoiceXML Forum and further in view of Larsson et al (US Patent 6,643,262 B1), hereinafter referred to as Larsson.

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Claim(s) 2, 25, 63: Padmanabhan discloses a method of claim(s) 1, 23, 62 respectively above, further including

storing ability in the message server (col. 3, lines 21-23). But Padmanabhan fails to disclose the status of the telephony session for access by the third party.

Larsson, however, discloses the status of the telephony connection changing from active state to paused state (col. 16, lines 55-59 of Larsson). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to store telephony connection status information in the message server for access by a third party. The motivation to do so would have been to associate connections to resources and to keep track of the state of the connection to see if it is inactive or paused state for disconnect (col. 16, lines 60-62 of Larsson).

Claim(s) 26: Padmanabhan discloses a system of claim 25 above, wherein the means for

storing comprises a database and a server providing Internet access (Fig. 1, ref. 42; wherein the database is in the message server and the webpage server has to have access to the Internet).

Claim(s) 3, 15, 27, 64: Padmanabhan discloses a method of claim(s) 1, 14, 23, 62 respectively above, but fails to disclose

monitoring a plurality of telephony servers to determine availability for the telephony session. Larsson, however, discloses the monitoring of telephony connections (col. 2, lines 13-17 and col. 14, lines 66-67 to col. 15, lines 1-6 of Larsson) for non-activity or period of quiescence and disconnect the inactive connections to make them available to the active ones. It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to use the message server to monitor a plurality of telephony servers to determine availability for the telephony sessions. The reason why Padmanabhan would want to monitor the telephony connections for inactivity is because Padmanabhan wants to reallocate core resources (returning memory) to other users' or applications' active connections (col. 2, lines 13-17 of Larsson).

Claim(s) 5, 17, 32, 66: Padmanabhan discloses a method of claim(s) 3, 15, 27, 64 respectively above, but fails to disclose the

prioritizing a plurality of telephony sessions. Larsson, however, discloses the priority levels assigned to subscribers to control allocations of connection resources (col. 4, lines 36-39 of Larsson; wherein the connection resources are the telephony sessions and the subscribers are the customers). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to use a priority mechanism to prioritize telephony sessions in the message server. The motivation would have been to determine a cost for the

type of service that is associated to the priority levels (col. 24, lines 62-67 to col. 25, lines 1-8 of Larsson).

Claim(s) 6, 33, 67: Padmanabhan discloses a method of claim 3, 27, 64 above, further including

receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions (col. 3, lines 35-37 and line 27 of Padmanabhan; wherein "some" telephone use is indicative of plural telephony sessions and third parties).

Claim(s) 7, 21, 68: Padmanabhan discloses a method of claim 6, 20, 67 respectively above, but fails to disclose

plurality of requests are dispatched to the plurality of telephony servers based on a semi-randomized selection process biased toward low load telephony servers. Larsson, however, discloses the use of resources based upon the overall load on the system at any given time, and the selection process biased toward a low load telecommunication system (col. 4, lines 28-35 of Larsson). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to dispatched requests to plurality of telephony servers based on a selection process biased toward low load telephony servers. (col. 12, lines 19-21 of Larsson). The reason why Padmanabhan would want to use the selection process based on low load telephony servers is because Padmanabhan wants to

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make full use of the telecommunication system resources for other users (col. 2, lines 13-17 of Larsson). Making full use of resources leads to a growth of data traffic, which in turn leads to more subscribers, which in turn leads to more dollars for the company (col. 2, lines 18-32).

Claim(s) 8, 22, 35, 69: Padmanabhan discloses a method of claim(s) 3, 15, 27, 64 respectively above, but fails to disclose

capturing a status of the telephony session. Larsson, however, discloses the status of the telephony connection changing from active state to paused state (col. 16, lines 55-59 of Larsson; wherein the statue is being captured somewhere in order for it to be used to decide to disconnect if at paused state or to stay connected if at active state). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to capture telephony connection status information in the message server for access. The reason why Padmanabhan wants to capture the status of the connection is because Padmanabhan wants to determine if the status is inactive, and if it is, the system will release resources (inactive channel, col. 16, line 60) back for other users' or applications' use (col. 16, lines 55-62 of Larsson).

Claim(s) 9, 36, 70: Padmanabhan discloses a method of claim(s) 1, 23, 62 respectively above, but fails to disclose

determining whether the request passes a policy check. Larsson, however, discloses a request for connection service, which is authenticated by checking a list of things (col. 14, lines 48-56 of Larsson; wherein the policy check is checking for subscriber's number and/or PIN code or password). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to determine if the request from the email system (Fig. 1, ref. 18 of Padmanabhan) passes a policy check. The motivation would have been to activate the connection service by first dialing the appropriate dynamic connection service number (col. 14, lines 40-42).

Claim(s) 10, 11, 12, 37, 38, 39, 71, 72, 73: Padmanabhan discloses a method of claim(s) 9, 36, 70 respectively above, wherein

the policy check is set by the third party, the customer, and a receiver of the request (col. 14, lines 48-56 of Larsson; wherein the policy check is checking for subscriber's number and/or PIN code or password. Each subscriber has to be able to set one's password in order for them to enter it for authentication, and each subscriber's number, A-number, has to be set for the system to identify each subscriber. There are multiple subscribers, and each has different roles of the third party or the customer, and/or the message server has the role of the receiver of the request).

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Claim(s) 18, 24: Padmanabhan discloses a system of claim(s) 15, 23 above, further including

a gateway for receiving a request from the third party to provide the telephony session (col. 3, lines 21-30; wherein the request is in a form of a message send by the email to the message server).

Claim(s) 19: Padmanabhan discloses a system of claim 18, wherein

the request comprises an email (col. 3, lines 21-30; wherein the request is in a form of a message send by the email to the message server).

Claim(s) 20, 28: Padmanabhan discloses a system of claim(s) 15, 27 above, wherein the

event queue interface includes a plurality of event queue servers for receiving a plurality of requests from a plurality of third parties to provide a plurality of telephony sessions (Fig. 1, ref. 12; wherein the message servers are the queue servers. It is well known to one of ordinary skill in the art to grow more servers as more requests and applications grow).

Claim(s) 34: Padmanabhan discloses a system of claim 33 above, wherein the means for receiving a plurality of requests includes

a plurality of HTML servers (Fig. 1, ref. 42 of Padmanabhan and col. 5, lines 30-34).

Claim(s) 4, 16, 29-31, 65 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Padmanabhan in view of VoiceXML Forum, and further in view of Larsson and Servi et al (US Patent 5,381,546), hereinafter referred to as Servi.

Claim(s) 4, 16, 29, 65: Padmanabhan discloses a method of claim(s) 3, 15, 27, 64 respectively above, but fails to include

scheduling the telephony session for a predetermined time. Servi, however, discloses scheduling of the performance of different types of tasks having different priorities (col. 3, lines 43-45 of Servi). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to use the message server to schedule telephony session. The reason for Padmanabhan's method to schedule the different types of tasks having different priority classes is to control the allocation of service among classes of requests for service (col. 3, lines 41-43 of Servi).

Claim(s) 30, 31: Padmanabhan discloses a system of claim 29, 29 respectively above, wherein the means for scheduling includes a database regarding the customer (Fig. 1, ref. 14, 18 and 42; wherein the scheduling is done by the message server and the database storing the schedule information is in the message server, email server, and web server).

Claim(s) 41-44 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Padmanabhan in view of Bowman-Amuah (US Patent 6,578,068 B1).

Claim(s) 41: Padmanabhan discloses a method of allowing an intermediate party to facilitate an interactive telephony session between a third party and a customer, the method comprising:

receiving an electronic request for the interactive telephony session from the third party (col. 3, lines 21-30; wherein the request is in a form of a message send by the email to the message server); and

initiating the interactive telephony session with the customer (col. 3, lines 55-60; wherein the interaction is in the form of tone dialing or verbal response).

Padmanabhan fails to disclose determining if the request passes a policy check, wherein the policy check is set by at least one of the third party, the customer, and the intermediate party. Bowman-Amuah, however, discloses determining if the request passes a policy check, wherein the policy check is set by at least one of the third party, the customer, and the intermediate party (col. 81, lines 50-67 of Bowman-Amuah). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to determine if the electronic request passes a policy check. The reason why Padmanabhan would want to determine if the request passes a policy check is because Padmanabhan wants prevent

intrusions and to protect private networks connecting telephony systems (col. 81, lines 60-62).

Claim(s) 42: Padmanabhan discloses a method of claim 41 above, but fails to disclose that the policy check includes confirming required resources. Bowman-Amuah, however, discloses confirming required resources wherein the required resources are email attachments with MIME standard (col. 74, lines 5-15 of Bowman-Amuah). It would have been obvious to one of ordinary skill at the time of the invention for Padmanabhan to use the policy check that includes email attachments' information with the request. The reason why Padmanabhan would want to use a policy check that includes an email attachment with MIME standard is because Padmanabhan wants to secure the email attachment, which in turn protects the request from an unintended source.

Claim(s) 43: Padmanabhan discloses a method of claim 42, but fails to disclose the determining of whether an associated file is attached to the request. Bowman-Amuah, however, discloses a scrambled message as part of a request requiring the username and password (col. 83, lines 14-20 of Bowman-Amuah; wherein the associated file is the scrambled message containing the username and password, and if the username and password are part of a request it has to be attached to the request). It would have been obvious to one of ordinary skill in the art at the time of the invention for Padmanabhan to determine if the scrambled message containing the username and

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password is attached to the request. The reason why Padmanabhan would want to use the scrambled message containing a username and password attached to the request is because this mechanism provides a level of security for the attachment and the request (col. 83, lines 14-20 of Bowman-Amuah).

Claim(s) 44: Padmanabhan discloses a method of claim 42, wherein confirming required resources includes determining whether an associated file is referenced in the request (This claim is rejected under the same basis as claim 43. When the file is associated to the request, it is referencing the request).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Lien whose telephone number is (703) 305-6018. The examiner can normally be reached on Monday-Thursday from 8:30am to 6pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for this Group is (703) 305-3718.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [tan.lien@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'Rupal Dharia', with a long horizontal flourish extending to the right.

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER